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S/N 10/607,567PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hung T. Dinh, et al. Examiner: Srirama T. Channavajjala
Serial No.: 10/607,567 Group Art Unit: 2166
Filed: June 26, 2003 Confirmation Number: 4435
Title: Replication of Binary Large Object Data Docket: AUS920030153US1

APPEAL BRIEF
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Sir:

This brief is presented in support of the Notice of Appeal filed on September 6, 2006, from the Final Rejection of claims 1, 2, 4-7, and 9-20 of the above-identified application, as set forth in the Final Office Action mailed on July 3, 2006.

Please charge \$500.00 to Deposit Account 09-0447 to cover the fee for filing an appeal brief. Please charge any additional fees or credit overpayment to Deposit Account 09-0447. Appellant respectfully requests reversal of the Examiner's rejection of pending claims 1, 2, 4-7, and 9-20.

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1. Real Party in Interest

The real party in interest, in addition to the inventors Hung T. Dinh and Phong A. Pham, is the assignee, International Business Machines Corporation, a corporation organized and existing under and by virtue of the laws of the State of New York, and having an office and place of business at New Orchard Road, Armonk, New York 10504.

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2. Related Appeals and Interferences

There are no other prior or pending appeals, interferences, or judicial proceedings, which may be related to, directly affect or be directly affected by, or have a bearing on the Board's decision.

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3. Status of Claims

On September 6, 2006, Appellant appealed from the final rejections of claims 1, 2, 4-7, and 9-20 made in the Final Office Action dated July 3, 2006. Finally rejected claims 1, 2, 4-7, and 9-20 on appeal are set forth in the Claims Appendix. Claims 3 and 8 are canceled without prejudice or disclaimer.

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4. Status of Amendments

After the Final Office Action, appellant did not amend the claims.

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5. Summary of Claimed Subject Matter

As described at page 2, lines 7-12 of appellant's specification; Fig. 2, element 216; Fig. 3, element 307; and Fig. 4, elements 420, 425, 430, and 435, an embodiment of the invention determines that blob (binary large object) data in a source field is associated with a source coded character set identifier, determines a target coded character set identifier for a target field, and replicates the blob data from the source field to the target field based on the source coded character set identifier and the target coded character set identifier.

With reference to claim 1, an embodiment of the invention includes a method for replicating blob data, which is described, for example, at page 9, lines 27-30, page 10, lines 1-28, and page 11, lines 1-11 of the specification and Fig. 4; determining that the blob data in a source field is associated with a first coded character set identifier, which is described, for example, at page 10, lines 10-14 of the specification, and Fig. 4, element 415; determining a second coded character set identifier for a target field, which is described, for example, at page 8, line 22 and lines 25-29, page 9, lines 1-4; page 10, lines 19-22, page 11, lines 10, lines 1-11 of the specification, Fig. 3, element 307, and Fig. 4, element 425; replicating the blob data from the source field to the target field based on the first coded character set identifier and the second coded character set identifier, which is described, for example, at page 11, lines 3-10 of the specification and Fig. 4, element 435; converting the blob data from the first coded character set identifier to the second coded character set identifier, which is described, for example, at page 11, lines 3-10 of the specification and Fig. 4, element 435; the first coded character set identifier specifies a first character set, a first code page, and a first encoding scheme, which is described, for example, at page 7, lines 24-28 of the specification and Fig. 2, element 216; and the first code page comprises a group of specifications of code points for each character in the first character set, which is described, for example, at page 8, lines 5-7 of the specification and Fig. 2, element 216.

With reference to claim 2, an embodiment of the invention describes the target field as having an associated type of character, which is described, for example, at page 8, lines 20-29 and page 9, lines 1-4 of the specification and Fig. 3, element 304.

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With reference to claim 4, an embodiment of the invention describes the character set as a double byte character set, which is described, for example, at page 8, lines 2-4 of the specification and Fig. 2, element 216.

With reference to claim 5, an embodiment of the invention describes that the second coded character set identifier specifies a second character set, a second code page, and a second encoding scheme, which is described, for example, at page 9, lines 14-17 of the specification and Fig. 3, element 307.

With reference to claim 6, an embodiment of the invention describes that the second encoding scheme is Universal Character Set Transformation-8, which is described, for example, at page 9, lines 20-23 of the specification and Fig. 3, element 307.

With reference to claim 7, an embodiment of the invention includes a signal-bearing medium encoded with instructions, which is described, for example, at page 6, lines 18-29 and page 7, lines 1-6 of the specification and Fig. 1, element 115; the instructions are executed by a processor, which is described, for example, at page 3, lines 3-19 of the specification and Fig. 1, element 110; determining that blob data in a source field is associated with a first coded character set identifier, which is described, for example, at page 10, lines 10-14 of the specification, and Fig. 4, element 415; determining a second coded character set identifier for a target field, wherein the target field has an associated type of character, which is described, for example, at page 8, lines 22-29, page 9, lines 1-4, page 10, lines 19-26, page 11, lines 1-11 of the specification, Fig. 3, element 307, and Fig. 4, elements 425 and 430; replicating the blob data from the source field to the target field based on the first coded character set identifier and the second coded character set identifier, which is described, for example, at page 11, lines 3-10 of the specification and Fig. 4, element 435; converting the blob data from the first coded character set identifier to the second coded character set identifier, which is described, for example, at page 11, lines 3-10 of the specification and Fig. 4, element 435; the first coded character set identifier specifies a first character set, a first code page, and a first encoding scheme, which is described, for example, at page 7, lines 24-28 of the specification and Fig. 2, element 216; and the first code page comprises a group of specifications of code points for each character in the first character set,

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which is described, for example, at page 8, lines 5-7 of the specification and Fig. 2, element 216.

With reference to claim 9, an embodiment of the invention describes that the character set is double byte character set, which is described, for example, at page 8, lines 2-4 of the specification and Fig. 2, element 216.

With reference to claim 10, an embodiment of the invention describes that the second coded character set identifier specifies a second character set, a second code page, and a second encoding scheme, which is described, for example at page 9, lines 14-17 of the specification and Fig. 3, element 307

With reference to claim 11, an embodiment of the invention describes that the second encoding scheme is Universal Character Set Transformation-8, which is described, for example, at page 9, lines 20-23 of the specification and Fig. 3, element 307.

With reference to claim 12, an embodiment of the invention includes a signal-bearing medium encoded with a data structure, which is described, for example, at page 4, lines 4-5, page 6, lines 18-29, page 7, lines 1-29, page 8, lines 1-29, and page 9, lines 1-26 of the specification and Fig. 1, elements 115, 126, and 128, Fig. 2, element 126, and Fig. 3, element 128; a source field including a data type, which is described, for example, at page 7, lines 10-23 of the specification and Fig. 2, element 204; an attribute for the data type, which is described, for example, at page 7, lines 8-29 and page 8, lines 1-10 of the specification, and Fig. 2, element 212; a replication controller, which is described at page 4, lines 17-24 of the specification and Fig. 1, element 140; determine whether data associated with the data type is blob, which is described, for example, at page 10, lines 10-14 of the specification, and Fig. 4, element 415; determine a source coded character set identifier associated with the data type, which is described, for example, at page 10, lines 10-14 of the specification, and Fig. 4, element 415; the source coded character set identifier specifies a source character set, a source code page, and a source encoding scheme, which is described, for example, at page 7, lines 24-28 of the specification and Fig. 2, element 216; the source code page comprises a group of specifications of code points for each character in the source character set, which is described, for example, at page 8, lines 5-7 of the specification and Fig. 2, element 216; replicate the data to a target field based on the source coded character set identifier and a

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target coded character set identifier, which is described, for example, at page 11, lines 3-10 of the specification and Fig. 4, element 435; and convert the blob data from the source coded character set identifier to the target coded character set identifier, which is described, for example, at page 11, lines 3-10 of the specification and Fig. 4, element 435.

With reference to claim 13, an embodiment of the invention describes that a target field has an associated type of character, which is described, for example, at page 8, lines 20-29 and page 9, lines 1-4 of the specification and Fig. 3, element 304.

With reference to claim 14, an embodiment of the invention describes that the source character set is double byte character set, which is described, for example at page 8, lines 2-4 of the specification and Fig. 2, element 216.

With reference to claim 15, an embodiment of the invention describes that the target coded character set identifier specifies a target character set, a target code page, and a target encoding scheme, which is described, for example, at page 9, lines 14-17 of the specification and Fig. 3, element 307.

With reference to claim 16, an embodiment of the invention describes that the target encoding scheme is Universal Character Set Transformation-8, which is described, for example, at page 9, lines 20-23 of the specification and Fig. 3, element 307.

With reference to claim 17, an embodiment of the invention includes an electronic device, which is described, for example, at page 5, lines 17-21 of the specification and Fig. 1, element 102; a processor, which is described, for example, at page 3, lines 3-19 of the specification and Fig. 1, element 110; a storage device encoded with instructions which is described, for example, at page 3, lines 24-29 and page 4, lines 1-24 of the specification and Fig. 1, element 115; determining that blob data in a source field is associated with a source coded character set identifier, which is described, for example, at page 10, lines 10-14 of the specification, and Fig. 4, element 415; the source coded character set identifier specifies a source character set, a source code page, and a source encoding scheme, which is described, for example, at page 7, lines 24-28 of the specification and Fig. 2, element 216; the source code page comprises a group of specifications of code points for each character in the source character set, which is described, for example, at page 8, lines 5-7 of the specification and Fig. 2, element 216; determining a target coded character set identifier for a target field,

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which is described, for example, at page 11, lines 3-11 of the specification and Fig. 4, element 435; the target field has an associated type of character, which is described, for example, at page 8, lines 20- 29 and page 9, lines 1-4 of the specification and Fig. 3, element 304; the target coded character set identifier specifies a target character set, a target code page, and a target encoding scheme, which is described, for example, at page 9, lines 14-15 of the specification and Fig. 3, element 307; replicating the blob data from the source field to the target field based on the source coded character set identifier and the target coded character set identifier, which is described, for example, at page 11, lines 3-10 of the specification and Fig. 4, element 435; and converting the blob data from the source coded character set identifier to the target coded character set identifier, which is described, for example, at page 11, lines 3-10 of the specification and Fig. 4, element 435.

With reference to claim 18, an embodiment of the invention describes that the source character set is double byte character set, which is described, for example at page 8, lines 2-4 of the specification and Fig. 2, element 216.

With reference to claim 19, an embodiment of the invention describes that the source encoding scheme is Universal Character Set Transformation-8, which is described, for example, at page 9, lines 20-23 of the specification and Fig. 3, element 307.

With reference to claim 20, an embodiment of the invention describes that the source field is in a source relational database and the target field is in a target relational database, which is described, for example, at page 4, lines 4-16 of the specification and Fig. 1, elements 126 and 128, Fig. 3, element 126, and Fig. 4, element 128.

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6. Grounds of Rejection to be Reviewed on Appeal

1. Whether claims 1-2, 4-5, 7, 9-10, 12-15, 17-18, and 20 are unpatentable under 35 U.S.C. 103(a) over Bruso et al. (U.S. 6,615,219), in view of Jarvis et al. (U.S. 6,424,976).

2. Whether claims 6, 11, 16, and 19 are unpatentable under 35 U.S.C. 103(a) over Bruso et al. (U.S. 6,615,219), in view of Jarvis et al. (U.S. 6,424,976), and further in view of Margulies et al. (U.S. 6,560,596).

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7. Argument

A) The Applicable Law

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131.

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). To do that the Examiner must show that some objective teaching in the prior art or some knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.*

The *Fine* court stated that:

Obviousness is tested by "what the combined teaching of the references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 878 (CCPA 1981). But it "cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." *ACS Hosp. Sys.*, 732 F.2d at 1577, 221 USPQ at 933. And "teachings of references can be combined *only* if there is some suggestion or incentive to do so." *Id.* (emphasis in original).

The M.P.E.P. adopts this line of reasoning, stating that

In order for the Examiner to establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation

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of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *M.P.E.P.* § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

An invention can be obvious even though the suggestion to combine prior art teachings is not found in a specific reference. *In re Oetiker*, 24 USPQ2d 1443 (Fed. Cir. 1992). At the same time, however, although it is not necessary that the cited references or prior art specifically suggest making the combination, there must be some teaching somewhere which provides the suggestion or motivation to combine prior art teachings and applies that combination to solve the same or similar problem which the claimed invention addresses. One of ordinary skill in the art will be presumed to know of any such teaching. (See, e.g., *In re Nilssen*, 851 F.2d 1401, 1403, 7 USPQ2d 1500, 1502 (Fed. Cir. 1988) and *In re Wood*, 599 F.2d 1032, 1037, 202 USPQ 171, 174 (CCPA 1979)).

A factor cutting against a finding of motivation to combine or modify the prior art is when the prior art teaches away from the claimed combination. A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path the applicant took. *In re Gurley*, 27 F.3d 551, 31 USPQ 2d 1130, 1131 (Fed. Cir. 1994); *United States v. Adams*, 383 U.S. 39, 52, 148 USPQ 479, 484 (1966); *In re Spinnoble*, 405 F.2d 578, 587, 160 USPQ 237, 244 (C.C.P.A. 1969); *In re Caldwell*, 319 F.2d 254, 256, 138 USPQ 243, 245 (C.C.P.A. 1963).

The test for obviousness under § 103 must take into consideration the invention as a whole; that is, one must consider the particular problem solved by the combination of elements that define the invention. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985). Furthermore, claims must be interpreted in light of the specification, claim language, other claims and prosecution history. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593, 1597 (Fed. Cir. 1987), *cert. denied*, 481 U.S. 1052 (1987). At the same time, a prior patent cited as a § 103 reference must be considered in its entirety, "i.e. as a whole, including portions that lead away from the invention." *Id.* That is, the Examiner must, as one of the inquiries pertinent to any

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obviousness inquiry under 35 U.S.C. § 103, recognize and consider not only the similarities but also the critical differences between the claimed invention and the prior art. *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990), *reh'g denied*, 1990 U.S. App. LEXIS 19971 (Fed. Cir. 1990). Finally, the Examiner must avoid hindsight. *Id.*

As explained in M.P.E.P. § 2112, the express, implicit, and inherent disclosures of a prior art reference may be relied upon in the rejection of claims under 35 U.S.C. 102 or 103. But, the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). Further, "[i]n relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original).

B) Discussion of the Rejections

1. Claims 1-2, 4-5, 7, 9-10, 12-15, 17-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruso et al. (U.S. 6,615,219), hereinafter Bruso, in view of Jarvis et al. (U.S. 6,424,976), hereinafter Jarvis.

Claims 1-2, 4-5, 7, 9-10, 12-15, 17-18, and 20

Appellant respectfully submits that the claims are patentable over the combination of Bruso and Jarvis because all of the elements of the claims are not taught or suggested by the combination Bruso and Jarvis, as further argued below.

Claim 1 recites: "the first coded character set identifier specifies a first character set, a first code page, and a first encoding scheme, and wherein the first code page comprises a group of specifications of code points for each character in the first character set."

The Examiner argues that Bruso describes a coded character set identifier, and relies on Bruso column 3, lines 25-28, which recites: "a BLOB identifier includes an address code, a length code, and a cyclic redundancy check (CRC) code." But, in contrast to Bruso, the coded character set identifier of claim 1 specifies a character set, a code page, and an

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encoding scheme, and the code page comprises a group of specifications of code points for each character in the character set.

The Bruso address, length code, and CRC do not teach or suggest specifications of code points for each character in a character set, as recited in claim 1. The Bruso address does not teach or suggest the character set, a code page, an encoding scheme, and a group of specifications of code points for each character in the character set, as recited in claim 1, because the Bruso address merely is "a storage address at which the BLOB begins" (Bruso at column 3, lines 27-28) and thus is unrelated to any characters that might be stored in storage that is pointed to by the storage address. The Bruso length code does not teach or suggest the character set, code page, encoding scheme, and group of specifications of code points for each character in the character set, as recited in claim 1, because the Bruso length code "indicates the number of words comprising the BLOB" (Bruso at column 3, lines 30-31), and the number of words would be the same regardless of what character sets, code pages, encoding schemes, or code points might possibly be used to describe characters that make up the words. The Bruso CRC does not teach or suggest the character set, code page, encoding scheme, and group of specifications of code points for each character in a character set, as recited in claim 1, because the Bruso CRC is used to detect database corruption (Bruso at column 4, lines 50-51) and the character set, code page, encoding scheme, and group of specifications of code points for each character, as recited in claim 1, are unrelated to database corruption.

The Examiner also relies on Bruso at column 3, lines 58-56, which recites: "a page number code which tells the number of the page, a page size code which tells the size of the page, number of words on the page available for records, and number of words on the page already used for records." But, in contrast to Bruso, the coded character set identifier of claim 1 specifies a character set, a code page, and an encoding scheme, and the code page comprises a group of specifications of code points for each character in the character set.

The Bruso page number, page size, number of words available, and number of words already used are merely four integer numbers that characterize one page. In contrast, claim 1 recites "a group of specifications of code points for each character in the character set." The Bruso page number does not teach or suggest code points for each character in the character

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set, as recited in claim 1, because a page number identifies a page and is unrelated to any characters that might be within a page.

The Bruso page size does not teach or suggest code points for each character in the character set, as recited in claim 1, because a page size is an amount of data within a page and does not apply to each character in the character set, as recited in claim 1 (emphasis added), but instead characterizes an amount of all the data within a page.

The Bruso numbers of words available and already used do not teach or suggest code points for each character in the character set, as recited in claim 1, because the Bruso number of words is unrelated to any character from a character set that might be used in a word. For example, the Bruso number of words available is the same regardless of what characters might be used to compose those available words. Similarly, the Bruso number of words already used is the same regardless of what characters might be used to compose those already used words.

Jarvis also does not teach or suggest "the first coded character set identifier specifies a first character set, a first code page, and a first encoding scheme, and wherein the first code page comprises a group of specifications of code points for each character in the first character set," as recited in claim 1, and the Examiner did not rely on Jarvis for such a teaching.

Thus, the combination of Bruso and Jarvis does not teach or suggest "the first coded character set identifier specifies a first character set, a first code page, and a first encoding scheme, and wherein the first code page comprises a group of specifications of code points for each character in the first character set," as recited in claim 1, and claim 1 is patentable over the combination of Bruso and Jarvis.

Independent claims 7, 12, and 17 include similar elements as previously argued above for claim 1 and are patentable over Bruso and Jarvis for similar reasons. Claims 2, 4-5, 9-10, 13-15, 18, and 20 are dependent on claims 1, 7, 12, and 17, respectively, and are patentable over the references for the reasons argued above, plus the elements in the claims.

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2. Claims 6, 11, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruso et al. (U.S. 6,615,219), hereinafter Bruso, in view of Jarvis et al. (U.S. 6,424,976), and further in view of Margulies et al. (U.S. 6,560,596) hereinafter Margulies.

Claims 6, 11, 16, and 19

Appellant respectfully submits that the claims are patentable over the references because not all the claim elements are taught or suggested by the references, alone or in combination, for the reasons argued below.

Claims 6, 11, 16, and 19 are dependent on claims 1, 7, 12, and 17, respectively, and are patentable over Bruso and Jarvis for the reasons argued above. Margulies also does not teach or suggest "the first coded character set identifier specifies a first character set, a first code page, and a first encoding scheme, and wherein the first code page comprises a group of specifications of code points for each character in the first character set," as recited in claim 1, and the Examiner did not rely on Margulies for such a teaching.

Thus, all of the elements of claims 6, 11, 16, and 19 are not taught or suggested by the combination of Bruso, Jarvis, and Margulies, so claims 6, 11, 16, and 19 are patentable over the combination of Bruso, Jarvis, and Margulies

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Conclusion

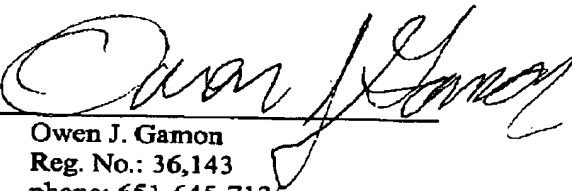
Appellant respectfully requests reversal of the above rejections. If the Board is of the opinion that any rejected claim may be allowable in amended form, then appellant also respectfully requests a statement to that effect.

Respectfully submitted,

Hung T. Dinh, et al.
By their Representative,

Date November 9, 2006

By

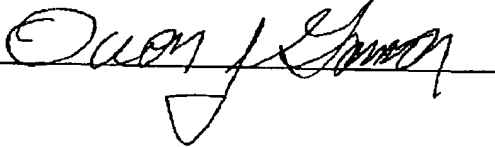

Owen J. Gamon
Reg. No.: 36,143
phone: 651-645-7135
fax: 651-457-5622

216 18th Ave North
South St. Paul, MN 55075

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Name Owen J. Gamon

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Serial No.: 10/607,567
Filed: June 26, 2003 Docket: AUS920030153US1
Title: Replication of Binary Large Object Data

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8. CLAIMS APPENDIX

1. A method for replicating blob data comprising:
 - determining that the blob data in a source field is associated with a first coded character set identifier;
 - determining a second coded character set identifier for a target field; and
 - replicating the blob data from the source field to the target field based on the first coded character set identifier and the second coded character set identifier, wherein the replicating further comprises converting the blob data from the first coded character set identifier to the second coded character set identifier, wherein the first coded character set identifier specifies a first character set, a first code page, and a first encoding scheme, and wherein the first code page comprises a group of specifications of code points for each character in the first character set.
2. The method of claim 1, wherein the target field has an associated type of character.
4. The method of claim 3, wherein the character set is double byte character set.
5. The method of claim 1, wherein the second coded character set identifier specifies a second character set, a second code page, and a second encoding scheme.
6. The method of claim 5, wherein the second encoding scheme is Universal Character Set Transformation-8.

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7. A signal-bearing medium encoded with instructions, wherein the instructions when executed by a processor comprise:
 - determining that blob data in a source field is associated with a first coded character set identifier;
 - determining a second coded character set identifier for a target field, wherein the target field has an associated type of character; and
 - replicating the blob data from the source field to the target field based on the first

coded character set identifier and the second coded character set identifier, wherein the